

## **Workshop on Water Quality Standards Attainment for Federal Dams in the Pacific Northwest**

Summary  
March 22, 2007

Disclaimer: This report is a summary of discussions and key points made in the workshop. It is not a full *verbatim* transcript of participants' statements. A number of issues were identified and common ground was found; however, these areas will require further discussions before formal agency positions are defined.

On November 14-15, 2006, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) convened a workshop on Water Quality Standards (WQS) Attainment for Federal Dams in the Pacific Northwest. The overall objective of the workshop was to set the stage for initiating a collaborative process between EPA, the Corps, U.S. Bureau of Reclamation (Bureau), U.S. Fish and Wildlife Service (USFWS), National Oceanic and Atmospheric Administration (NOAA Fisheries), other relevant federal agencies, states, and tribes to develop a comprehensive and integrated, regionally-based approach for addressing WQS attainment issues associated with federal dams in the Pacific Northwest. The purposes of the workshop were as follows:

- To reach common understanding of the:
  - Congressional authority under which the Corps/Bureau are required to operate their federal dams.
  - Legal and regulatory frameworks under which federal dams in the Pacific Northwest must operate in a manner consistent with the Clean Water Act (CWA).
  - Requirements that must be met under the Endangered Species Act (ESA) in order to meet CWA and state WQS requirements.
- To reach common understanding of the challenges the Federal Dam Operators face in attempting to simultaneously satisfy the sometimes conflicting aspects of: 1) their congressionally mandated operational requirements, 2) the requirements of the ESA, and 3) the requirements of the CWA.
- To determine whether there is agreement on the need for a "Pacific Northwest" approach to a comprehensive and integrated, regionally-based resolution of CWA and ESA-related issues associated with setting and attaining WQS in waterbodies affected by federal dams.
- If there is agreement, to discuss a process for producing a roadmap for the development and testing of a guide for developing attainable WQS that also meet ESA requirements and allow for federal dams to operate according to Congressional requirements for waterbodies affected by Federal dams in the Pacific Northwest.

Participants of this workshop consisted of staff from the following agencies/governing bodies: EPA, the Corps, the Bureau, NOAA Fisheries, USFWS, Bonneville Power Administration (BPA), Washington Department of Ecology (WA DOE), Oregon Department of Environmental Quality (OR DEQ), Idaho (ID) DEQ, Confederated Tribes of the Umatilla Indian Reservation, Cowlitz Indian Tribe, Grand Ronde Tribe, Kalispel Tribe of Indians, Nez Perce Tribe, and the Columbia River Inter-Tribal Fish Commission (CRITFC). A complete list of attendees is available in Appendix A of this document.

This document serves to summarize only the key points, decisions, actions, and next steps discussed and identified during the workshop; it is not a minute-by-minute account of the workshop.

### **Brief Summary of Day One**

Denise Keehner of EPA headquarters (HQ), Dave Shepp of the Corps HQ, Mike Gearheard of EPA Region 10, and Witt Anderson of the Northwestern Division of the Corps provided introductory remarks to kickoff the meeting and to thank people for attending. The following remarks were made:

Denise Keehner, EPA

- Challenges exist with attainable WQS related to dams.
- Dams need to comply with several sets of statutory & regulatory requirements.
- Issues exist sometimes with competing and contradictory requirements.
- We do not necessarily want the courts or Congress to decide the specific issues when we are in the best position to produce the best possible answer.
- At this workshop, we will have listening ears to better understand where people are coming from.
- We will remain open minded and not infer motives in participants' views expressed here.
- The fundamental question for this group is: Do we want to move forward in a collaborative and regional manner to resolve and reconcile issues?

Dave Shepp, Corps of Engineers

- Risks exist with the current path.
- The people in this room are the ones to solve the issues.
- “1 + 1 = 3” In the northwest, there has been work on 1 impairment (temperature), with 1 state (Oregon), for the past 3 years, without accomplishing a pilot study. This is an inefficient way to conduct the public's business; we must do better.
- Dam operators need to optimize for 3 authorities: projects in place and operating for multiple purposes, CWA, and ESA.
- The Corps is committed to moving in a greener direction.
- Need integration and regionalization for these issues, and find areas of intersection to move ahead in an efficient manner.

Mike Gearheard, EPA Region 10

- WQS represent a science goal of society, to improve the environment – a noble goal.
- Dams represent grand achievements of society, also high ideals.
- I do not see a brick wall here, or a stuck in the mud situation. EPA Region 10 wants to support both goals.
- EPA understands that there is an attainability problem.

Witt Anderson, Corps Northwestern Division

- Need to work for a comprehensive regional solution, get agreement, build support for the needed funding (Congress) to do what is feasible, both technical and economic.
- Fish program and water quality: While some overlap exists, there are different processes and people involved. Need to coordinate among the processes, but do not combine them. Find a subset of players who can work on both, in the areas of intersection.

Day One of the Workshop focused on setting the context and providing information on existing attainment issues at selected federal dams in the Pacific Northwest for discussion by breakout groups. To create a common information base, participants received presentations on:

- CWA requirements (including WQS and Total Maximum Daily Loads (TMDL)) affecting federal dam operations
- Five potential WQS flexibilities/tools available under the CWA and/or State laws
- ESA requirements that must be met and flexibilities under ESA
- Congressional authorization legislation for federal dams and flexibilities
- Distinctive aspects of state water quality standards and flexibilities/tools in Idaho, Oregon, and Washington
- Case studies for Grand Coulee Dam on the Columbia River in Washington, Applegate Dam on the Applegate River in Oregon, and Lower Snake and Dworshak Dams on the Snake/Clearwater Rivers in Washington and Idaho.

A handout outlining the differences between ESA consultation for project/dam operation and ESA consultation for EPA approval of WQS was provided. For detailed information on the differences, please see the handout.

Participants then gathered into three breakout groups representing each case study for the remainder of Day One to explore and understand the complex issues associated with the case study and to brainstorm ideas and options for approaching the problem.

### **Key Points from Day One**

As discussed above, Day One largely focused on sharing information through several presentations. These presentations are not summarized below; however, questions, comments, and discussion during these presentations are captured below.

#### CWA Requirements

Jennifer Wigal of EPA provided an overview of CWA requirements. For detailed information on CWA requirements, please see the presentation. The following is an account of questions, comments, and discussion during the presentation.

- TMDLs do not look at the appropriateness of standards; there is an assumption that the standards promulgated are sufficient. In the Pacific Northwest, there are a variety of legal arrangements (consent decrees and settlements) that bind States to perform TMDLs and EPA to approve the TMDLs. In 2000, EPA took the leadership in developing the Columbia/Snake River Temperature TMDL because the states of Oregon, Washington, and Idaho requested that EPA develop the TMDL due to its multi-state nature. Generally, TMDLs are not vetted through the ESA consultation process, unless there are specific cases where coordination is prudent.
- Q. Where/when is economic feasibility considered in beneficial use designations?
  - A. A change in a designated use can take into consideration widespread economics. However, economic feasibility is one of many variables that can be considered during a change in use.

#### CWA Tools

In addition, Jennifer Wigal provided a presentation on CWA tools. For detailed information on CWA tools, please see the presentation. The following is an account of questions, comments, and discussion during the presentation.

- *Use Attainability Analysis (UAAs)*: ID DEQ has worked on approximately a dozen UAAs, and half were successful and/or accomplished. WA DOE has drafted guidance on UAAs and performed a few UAAs; they have struggled with UAAs for irrigation ditches. EPA supports UAAs for irrigation ditches where it is clear that salmonid uses are not attainable. In addition, EPA generally believes a TMDL or some other analysis should be completed prior to performing a UAA because the information generated will be useful in determining what is attainable. If a Dam owner chooses to perform a UAA, the owner should consider completing the ESA section 7 consultation to support the UAA. OR DEQ has worked on an internal management directive to address UAAs. Oregon believes there is a legal issue with lowering a designated use when there is an existing use; as such, UAAs are not considered by Oregon to be a viable tool in many circumstances. EPA thinks that Oregon's interpretation of the definition of existing use may be a more narrow interpretation than what EPA believes is required by the federal water quality standards regulations.
- *Site Specific Criteria (SSC)*: This tool is appropriate for unique biological situations or where there are other unique water body characteristics; it is essentially a science test, not economic.
- *Variances*: EPA is required to approve variances since they are changes to WQS. Variances need to go through a public participation process, which differs with each state. For OR DEQ, variances are only applicable to NPDES permitted dischargers; dams are not regulated by NPDES permits, and therefore, cannot utilize variances. ID DEQ considers variances as an administrative tool, and does not consider as a WQS.
- *Compliance Schedule*: The potential use of "compliance schedules" for dams is based on state law and does not derive from the CWA. (Compliance schedules as defined in the CWA are only for

NPDES-permitted sources.) As such, states adopt and implement compliance schedules under their own state authorities. ID DEQ's rules are very specific, in that schedules apply only to point sources. Providing this option (compliance schedule) to dams (non point sources) in Idaho would require a rule change. OR DEQ has rule language, which is not yet approved by EPA, on compliance schedules that apply only to NPDES permits and 401 certifications. WA DOE has a rule in place for dealing with compliance schedules for dams. Washington has been challenged on the enforceability of compliance schedules. The concern with compliance schedules is that the entity will never be compliant with the standard because the schedule starts from a point of non-attainment/compliance. EPA considers a compliance schedule enforceable per the state's discretion, but acknowledges that this may not provide coverage from third party lawsuits.

- *TMDLs*: Some workshop participants wondered why TMDLs were not in the presentation on CWA tools. It was noted that the presentation focused primarily on WQS tools, but that TMDLs could also be a tool. It was further noted that the loading analysis portion of a TMDL could be undertaken without necessarily moving to the formal TMDL approval process.

#### ESA Requirements

Ritchie Graves of NOAA Fisheries provided a presentation on ESA requirements. He said that, for the ESA assessment process, dams are there, and we (NOAA) figure out how to live with them. For detailed information on ESA requirements, please see the presentation. The following is an account of questions, comments, and discussion during the presentation.

- Q. Did the original authorization for federal dams go through ESA consultation?
  - A. No, all dams we are considering were authorized prior to the enactment of the ESA.
- Q. Does a change in dam operation need to go through ESA consultation? All non-federal hydro power dams go through ESA consultation as part of the Federal Energy Regulatory Commission (FERC) license process.
  - A. Generally, yes.
- NOAA Fisheries did not consult on the EPA Region 10 Regional Temperature Guidance, but did endorse the guidance via a letter from regional management.

#### Congressional Authorization Legislation for Federal Dams

Dave Ponganis of the Corps provided a presentation on Congressional Authorization Legislation for federal dams. For detailed information on this subject, please see the presentation. The following is an account of questions, comments, and discussion during the presentation.

- Q. How long does it take to get Congressional authorization for modifications?
  - A. Dam authorizations typically occur as part of a Water Resources Development Act, which Congress may enact roughly every two years. However, it could take four to five years to prepare the information for Congress. There are two separate legislative actions. Authorizations are given in a Water Resources Development Act (WRDA), which can happen every two years. However, the most recent WRDA legislation was passed in December 2000, so it has been a while for new Corps authorizations. The Corps receives funding for its programs as part of the annual appropriations process. Both actions must occur in order for the Corps to construct a project. The timeframe for both authorization and appropriation takes a few years, and can take more than 20 years.
- Q. Is there any flexibility to start some of the modification projects prior to approval from Congress?
  - A. It depends on the action.
- Q. What modifications trigger Congressional action?
  - A. Depends, there is some discretion but it is defined. If the modification requires funding, it will require Congressional action. At Chief Joseph Dam, it took approximately six years to receive authorization and funding for modifications. However, an operational change/decision at Dworshak did not require Congressional authorization, but implementing the operational change took approximately five to six years from start to finish. This time was

required to conduct feasibility tests and negotiate the operation through the ESA Section 7 consultation process for hydrosystem operations. Note that many of the Bureau's Congressional authorizations have funding ceilings, and occasionally require a request for additional funds to make structural changes.

#### State and Tribal WQS and Flexibilities/Tools

During this session Don Essig (ID DEQ), Marilyn Fonseca (OR DEQ), and Melissa Gildersleeve (WA DOE) briefly discussed the unique aspects of their states' WQS and flexibilities and tools that are available. Washington summarized their WQS via a PowerPoint presentation. Tribes did not speak to their WQS. The following is an account of questions, comments, and discussion during the presentation.

**ID DEQ:** a key point from Don Essig's presentation was that the state of Idaho requires all rule changes to be submitted to the state Legislature, which can make changes to WQS very difficult and long. This process takes 18 months at a minimum. After legislative action, the rule change goes to EPA for approval, which triggers ESA consultation in any waters with listed species. The State of Idaho also has a stringency statute. Idaho DEQ is not to adopt a rule which is broader in scope or more stringent than Federal rule or that regulates an activity not regulated by the Federal government, unless additional steps are followed. These steps include use of best science, risk analysis, and more detailed public notice, as may be appropriate. Because of difference in state laws and regulations, Don expressed skepticism about the feasibility/wisdom of developing a uniform regional approach for resolving WQS attainability issues at federal dams; he also noted concern that this workshop and potential approach would focus on federal dams only, leaving non-federal dams out of the discussion/resolution. Participants did not have questions or comments on Idaho's WQS and flexibilities and tools.

**OR DEQ:** key points from Marilyn Fonseca's presentation were that OR DEQ does not have the resources to participate in a regional process, and that the State has legal concerns with UAAs. Marilyn also stressed the difficulty in making changes to WQS. Participants did not have questions or comments on Oregon's WQS and flexibilities and tools.

**WA DOE:** key points from Melissa Gildersleeve's presentation were that: UAAs and Variances require changes to Washington rules, and rule making is extremely costly and time consuming; Tribes play a pivotal role in the WQS process; Washington depends heavily on TMDLs to understand the different contributors and who is having an influence on an impaired waterbody; a WQ attainment plan must show aggressive work to ensure compliance with all applicable WQS; and Washington believes UAAs should analyze the entire waterbody (as opposed to a section of the waterbody), and all parties must be on board beforehand because Washington does not want another disapproval action. Participants had the following questions for Melissa:

- Q. If you know a dam cannot meet the standards will you do a compliance schedule?
  - A. Yes. Some dams that Washington is working with are meeting/attaining standards.
- Q. Have your compliance schedules withstood third party lawsuits?
  - A. Yes.
- Q. How many operating compliance schedules do you have under your belt?
  - A. A handful.
- What is the duration of the schedule?
  - A. 10 year period, and at year eight Washington evaluates how the dam is doing and determines if it is worthwhile to pursue the schedule for another 10 years.

#### Case Study: Grand Coulee Dam

Bryan Horsburgh of the Bureau provided a presentation on Grand Coulee Dam on the Columbia River in Washington. For detailed information regarding this case study, please see the presentation or case study 1-pager. The following is an account of questions, comments, and discussion during the presentation.

- Comment: According to Mike Gearheard, natural background should be taken into consideration, because it may reduce the number of days that Grand Coulee dam is out of compliance.



### Case Study: Applegate Dam

Matt Rea of the Corps provided a presentation on Applegate Dam on the Applegate River in Oregon. For detailed information regarding this case study, please see the presentation or case study 1-pager. The following is an account of questions, comments, and discussion during the presentation.

- Q. Does the legal issue regarding existing use<sup>1</sup> apply to Applegate Dam since construction of the dam was not completed until 1980?
  - A. Applegate Dam was authorized in the early 1970s, and construction started in 1976.

### Case Study: Lower Snake River and Dworshak Dams

Steve Juul of the Corps provided a presentation on the Lower Snake River and Dworshak Dams on the Snake and Clearwater Rivers in Idaho and Washington. For detailed information regarding this case study, please see the presentation or case study 1-pager. The following is an account of questions, comments, and discussion during the presentation.

- Q. Do run-of-river dams create temperature problems in a waterbody?
  - Yes. Operating the run-of-river dams close to full pool provides required navigation depths, supports power generation, and allows fish passage facilities to operate properly. Operating reservoirs near full has the result of slowing water flow and increasing the surface area relative to unimpounded river conditions. The increased surface area is subject to unavoidable solar heating – just by the mere existence of the dam – independent of any reservoir operations/management actions.

### **Brief Summary of Day Two**

Day Two focused on discussing issues, options, and approaches for addressing the issues for each case study breakout session, based on a report out of each breakout group's discussion from Day One. In addition, each organization voiced its perspective on the need and utility of an integrated regional approach for addressing WQS attainment challenges, barriers, and issues for waterbodies affected by Federal dams in the Pacific Northwest.

Based on these perspectives, participants generally agreed that 'one size does not fit all' and that a single answer was not likely to apply region-wide. The participants agreed that some kind of "forum"—that would be collaborative, multi-stakeholder and intergovernmental, and allow for case-by-case problem solving—could work for addressing these issues. (See "Convergence of Organizations' Visions," below.) This agreement will need to be approved by each organization's management. Participants then began to identify an initial, tentative list of action items that would need to occur to move forward with the idea of a regional process or forum for resolving regional WQS attainment challenges, issues, and barriers for waterbodies affected by federal dams.

### **Key Points from Day Two**

#### Report of Breakout Group Discussions

Each case study breakout group reported on their discussion from Day One to meeting participants. Below are brief summaries of breakout group reports.

*Breakout Group—Applegate Dam:* Dave Ponganis reported on the discussion of the Applegate Dam case study breakout group. Much of the breakout group's discussion was on clarifying what the WQS attainability issue is at Applegate and determining whether all parties agree to what the issue is. Breakout group participants thought that the Corps had additional work to demonstrate what the issue is at Applegate Dam; however, to continue discussion, specifically on potential approaches for addressing the issue, the group assumed that in theory there was a problem. The group discussed and considered addressing the attainability issue through a UAA and SSC, and thought these tools may not be viable

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<sup>1</sup> 40 CFR 131.3(e): "Existing uses are those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards."

options because of the magnitude of analysis and science needed to demonstrate non-attainability and identify a new use or criterion/criteria. The group briefly discussed and quickly realized that variances and compliance schedules are not an option for Applegate Dam because of Oregon standards. As such, the group concluded, through a process of elimination, that the best option for the Corps is to work with Oregon Department of Fish & Wildlife and DEQ to develop a temperature management plan for Applegate Dam. Some participants thought this was a good interim option until such time as the TMDL was revisited.

*Breakout Group—Grand Coulee:* Tim Personius reported on the discussion of the Grand Coulee case study breakout group. He began by identifying all the WQS attainability issues at Grand Coulee Dam, including: having two different standards for the waterbody (state and tribal standards); inconclusive analysis in terms of describing the full extent of temperature management capabilities; too much focus on standards and not enough on biological issues; and the lack of a TMDL for the Columbia River. The breakout group discussed several options for addressing these issues, including restarting the TMDL process and data collection, multi-stakeholder collaboration, a compliance schedule with Washington, and CWA tools (e.g., UAA, SSC, etc). The breakout group did not identify a favored approach for addressing issues at Grand Coulee.

During the discussion, EPA Region 10 indicated its intention to explore, in 2007, restarting the Columbia/Snake River Temperature TMDL process. Participants briefly discussed the relationship of Judge Redden's remand process to water quality issues, and the potential for EPA and other agencies (e.g., NOAA fisheries, USFWS) to stand by the Bureau's and Corps' side in situations where the Bureau and Corps are vulnerable to litigation because of non-attainment as long as they are making a good faith effort to meet the standards. Please note that participants discussed Judge Redden's direction to NOAA fisheries to revise its biological opinion on the operation of the Federal Columbia River Power System; specifically participants discussed when the revised biological opinion will be completed. Dave Shepp, Corps, said that a modeling effort for the Columbia/Snake River Temperature TMDL needs to be an interagency, collaborative and open effort. The Corps believes that the necessary data should be obtained, an appropriate modeling tool selected, fundamental assumptions (such as: dams in the baseline, accounting for system wide inputs of pollution-from both point and nonpoint sources) agreed upon, and a collective assessment and interpretation and report upon findings completed. Mike Gearheard, EPA, supported the need for our modeling experts to get together, along with key policy-level officials, to discuss the appropriate path forward on the Columbia/Snake mainstem temperature TMDL.

*Breakout Group—Snake and Dworshak Dams:* Ritchie Graves reported on the discussion of the Snake/Dworshak dams case study breakout group. During the breakout group discussion, there was recognition of several points, including: the need for comprehensive analysis especially of temperature, that ESA may be more flexible than CWA (e.g., tradeoffs), the need to address load allocation and its biological effect, and the need for a systematic approach to address waterbody issues. The breakout group discussed and considered the CWA tools. The group did not consider SSC or UAAs as viable options, because for the SSC approach it would be difficult to argue that temperature in late summer/early fall would affect fish and UAAs have significant challenges such as entire waterbody analysis and the permanent nature of the UAA outcome. The group leaned more toward variance and/or compliance schedule approach for Snake River and Dworshak dams.

#### Calling the Question: Organizations' Visions and Underlying Needs/Concerns

Based on the information provided on Day One and discussion and reports from the case study breakout groups, each organization was asked to provide their opinion regarding a regional, integrative approach/process for addressing WQS attainment issues at federal dams. The following represents a brief summary of the participants' response from each organization. Please note that an organization's response does not constitute an organization's agreement of a regional approach or process; each organization needs to obtain this from management.

- The Bureau is conditionally supportive of a regional process for addressing attainment issues at federal dams. However, the Bureau is not sure that a one-size-fits-all approach for resolving

attainment issues at federal dams is appropriate because each dam has its own set of issues that should be addressed by the appropriate stakeholders and agencies.

- U.S FWS is supportive of a regional process for addressing attainment issues at federal dams. However, U.S. FWS thinks it would be a mistake if the process did not integrate the CWA, WQS, and ESA. Due to funding/resource limitations, management will need to determine at what level U.S. FWS staff can participate in such a process.
- The Corps is supportive of a regional process for addressing attainment issues at federal dams. And, based on workshop discussion, the Corps finds it difficult, with respect to technical issues and tools related to specific projects, to envision a single regional “answer” for resolving attainment issues. Because UAAs and SSCs seem to be very difficult to accomplish, the Corps would like to explore other tools that can be used to resolve attainment issues.
- BPA is supportive of a collaborative process for addressing attainment issues at federal dams. BPA agreed that there was a need for additional modeling, and noted the importance of maintaining a reliable power system in the Pacific Northwest.
- ID DEQ is supportive of a regional process for performing analysis of waterbodies. ID DEQ is not supportive of a regional approach or guidance on WQS and WQS attainability. ID DEQ strongly stressed the need for flexibility in WQS, and a regional approach may further reduce WQS flexibility.
- EPA noted that it is clear that there are WQS-related attainability issues on some to many waterbodies where federal dams are located, that the answer as to what needs to be done for a particular waterbody should be a case-by-case determination, and that the answer may be best determined through a collaborative process where stakeholders are working together. As such, EPA is supportive of a regional, collaborative process for addressing attainment issues for federal dams on a case-by-case basis. EPA also noted the need to deal with the disconnect between WQS and ESA, and the importance of providing some level of compliance coverage to dams while the process is underway so that the process is not derailed by litigation.
- The Cowlitz Tribe noted the importance of obtaining the perspective from all tribes or the appropriate tribes for a particular case, and that resources are limited for most tribes. Furthermore, the Cowlitz Tribe believes that the process should consider other processes to identify what is and is not working and to not recreate the wheel.
- The representative of the Umatilla Tribes believes a regional, collaborative process is the only viable approach for addressing WQS attainment issues. He also believes the Columbia/Snake River Temperature TMDL must move forward. He noted that the Umatilla Tribes’ patience is wearing thin as they don’t see solutions coming to Columbia River issues.
- NOAA Fisheries is supportive of a regional process for analysis, and noted apprehension about a regional solution for attainment issues. NOAA Fisheries is willing to bring what resources it has to the process, but requested that issues be prioritized to help with resource allocation decisions. In addition, NOAA Fisheries noted the need to consider climate change during the process.
- Nez Perce Tribe is supportive of a regional, collaborative process for addressing attainment issues for federal dams. The Nez Perce Tribe noted the important role of science in the process, and the need to integrate ESA with CWA. In addition, the Tribe noted the need to consider whether dams as technology are outdated and if there are other, better technologies now.
- OR DEQ voiced concerns with a regional approach and process, specifically with the uncertainty of the outcome of either. OR DEQ is struggling with how to focus resources and time on efforts that have environmental and ecological benefits rather than spending resources and time on bureaucratic processes that do not yield much environmental benefit. OR DEQ requested that the federal agencies determine their policies collaboratively, so that when the state comes to them for approval



of WQS and other standards and guidance, the state does not run into conflicting policies and opinions. Though OR DEQ has limited resources, it may participate in a regional collaborative process if the process could help OR DEQ through the federal approval processes.

- CRITFC supports the Nez Perce and Umatilla tribes' positions. CRITFC believes science needs to be the lead of the process, and that if there is a collaborative process participants should support a common goal of ecological sustainability and fish recovery and not just meeting standards.
- WA DOE believes the appropriate forum for a collaborative process is the Columbia/Snake River Temperature TMDL. WA DOE is not supportive of additional regional guidance because it reduces Washington's flexibility. WA DOE noted that it has limited resources to dedicate to a collaborative process.
- Kalispel Tribe is supportive of a regional, collaborative, and integrative process to addressing attainment issues at federal dams.

#### Convergence of Organizations' Visions/Conceptual Approach

Jerry Boese of Ross & Associates, the workshop facilitator, summarized where there was convergence (i.e., common ground) among organizations' visions of regional, integrative approach/process for addressing WQS attainment issues at federal dams. The following represents the summary presentation and discussion that was provided at the workshop.

- Achieve a balance of federal dam operations, requirements of ESA and CWA
- A regional dialogue or forum that:
  - Is comprehensive (ESA/Essential Fish Habitat (EFH), CWA, and the existence/operation of Federal dams in each case)
  - Is collaborative, inclusive (tailored), open process
    - Includes Federal, State, Tribal, and others
  - Uses systemic approach to focus case-by-case (not one-size-fits-all) on facilities and optimizes opportunities/adjustments to achieve maximum overall comprehensive watershed system benefit
    - Using best available short/long term CWA tools
  - Addresses issues, to include:
    - Data collection, modeling, & analysis
    - Finding collaborative solutions (case-by-case) in a systems (i.e. watershed) context
- During forum process, determine how to provide interim to longer-term compliance coverage to reduce litigation risk
- Seek and use available or additional flexibilities to ultimately find the highest attainable and feasible solutions
- Recognize where overlap occurs between ESA and CWA requirements and work within this context to identify commonalities and cases across the requirements, lay the groundwork for the development of consistent, comprehensive regulatory guidance
- Participants of the forum have a shared goal of recovery, protection, and attainment (not just regulatory compliance)
- Focus on regional priorities, such as the:
  - Willamette Basin TMDL
  - Columbia/Snake mainstem temperature TMDL
  - Need to address all water quality issues, in addition to temperature
- Find early opportunity for success
- Should be science based
- On a case-by-case basis, identify and engage sub-sets of key stakeholders to resolve issues
- Resources (data, human, and financial) are limited:
  - Need to identify priority issues, particularly for states & tribes
  - Need to identify and secure commitments of appropriate resources to analyze and resolve problems

- There is an initial commitment to move forward in this Region to work together to find solutions (details need to be worked out)
- “Systemic,” includes:
  - Looking up and downstream
  - Appropriate ESA and CWA within the context of the existence and operation of Federal dams
- Consider how to involve non-federal dams and other sources (such as forestry, agriculture, urban lands, and mining)
- Commitment to develop charter/charge for (forum or name TBD)

### Tentative Action Planning

While participants generally agreed upon the utility and desirability of a regional, collaborative, and integrated intergovernmental “forum”<sup>2</sup> for addressing WQS attainment issues for federal dams in the Pacific Northwest, many of the attending organizations will need to confirm their commitment to the shared goals and ideals expressed by the participants at the conclusion of the workshop. Notwithstanding, meeting participants tentatively began action planning for the process. The following table represents a number of next steps that could be taken to establish the regional process. Please note that the table below outlines proposed next steps identified at the November 15 session, but the Action Plan table has been subsequently revised – see Appendix B.

### **Tasks for Setting up the New “Forum”**

<b>Task</b> <i>[SEE APPENDIX B FOR REVISED VERSION]</i>	<b>Lead Individual(s)</b>	<b>Other Participants</b>	<b>Resources Needed</b>	<b>Target Completion Date</b>	<b>New Dates</b>
<b>MEETING SUMMARY</b> <ul style="list-style-type: none"> <li>▪ Summarize and distribute initial concepts for review</li> <li>▪ Summarize Group Purpose Comments Back</li> </ul>	EPA/Corps/Ross	TBD		Dec 1/Dec 15	
<b>ORGANIZATION</b> <ul style="list-style-type: none"> <li>▪ Organizations check back with bosses/ Identify staff (accountability)</li> </ul>	All			Jan 31	
<b>BUILD GROUNDWORK</b> <ul style="list-style-type: none"> <li>▪ Take a couple of months to have conversations with states on specific projects, best available tools, expectations               <ul style="list-style-type: none"> <li>▫ Applegate, Willamette</li> </ul> </li> </ul>	Corps	EPA, States, Tribes		Start Dec 1 Target complete by April 1	
<ul style="list-style-type: none"> <li>▪ Identify Parallel (not sequential) Paths to resolve priority issues</li> <li>▪ Short term path:               <ul style="list-style-type: none"> <li>▫ Applegate, Willamette</li> <li>▫ Other?</li> <li>▫ Conversations on Col-Snake TMDL (whether and how to pursue modeling)</li> </ul> </li> </ul>	All				
<ul style="list-style-type: none"> <li>▪ Long term path:               <ul style="list-style-type: none"> <li>▫ Revisit w/ OR</li> <li>▫ Identify issues in WA &amp; ID standard issues and other changes</li> <li>▫ Fed collaboration on</li> </ul> </li> </ul>	Corps/EPA/ Bureau/states/ tribes	NOAA/FWS		Start Dec 1 Target complete by April 1 Complete by Dec	

<sup>2</sup> Please note that participants identified the need for a different name for the group that will address WQS attainment issues at federal dams.

Task [SEE APPENDIX B FOR REVISED VERSION]	Lead Individual(s)	Other Participants	Resources Needed	Target Completion Date	New Dates
modeling				2007	
<b>FEDERAL INTEGRATION</b> <ul style="list-style-type: none"> <li>▪ Convene Federal agencies to integrate federal process (WQS) <ul style="list-style-type: none"> <li>▫ States want to avoid negotiations with individual fed agencies</li> <li>▫ States get differing opinions from fed agencies on dams and CWA</li> <li>▫ States need assurances on what it is going to take to get through fed process</li> </ul> </li> </ul>	Fed Family			TBD	
Corps Columbia/Snake Water Quality Plan	Corps	EPA, States, Tribes		Mid-December & Spring 07?	
<ul style="list-style-type: none"> <li>▪ Forum should address larger long term policy decisions <ul style="list-style-type: none"> <li>▫ Collectively agree on best tools to address tough CWA/WQS issues</li> </ul> </li> </ul>	All		TBD	TBD	
<ul style="list-style-type: none"> <li>▪ Forum should look at FERC process to provide possible tools</li> </ul>	All	FERC, PUDs	TBD	TBD	
<ul style="list-style-type: none"> <li>▪ Convene a Group/Forum</li> </ul>	EPA/Corps/Fed Fish Agencies	All/TBD	TBD		
<ul style="list-style-type: none"> <li>▪ Develop a Description of Group/Forum</li> </ul>	EPA/Corps	All/TBD	TBD		

An immediate next step was for the two convening agencies (EPA and Corps) to meet on November 16 to discuss how to move forward with establishing the regional process/group for addressing attainment issues at federal dams. Update: during the EPA/Corps meeting on November 16, participants further discussed and identified additional actions for the Action Plan. The Action Plan was updated after the EPA/Corps meeting to reflect the discussion, and is available in Appendix B.

If you have any questions on this summary, please contact Sharon Frey (202-566-1480) or email at [frey.sharon@epa.gov](mailto:frey.sharon@epa.gov).

**Appendix A: Sign-in Sheet for the Workshop on Water Quality Standards Attainment for Federal Dams in the Pacific Northwest**

First Name	Last Name	Company Name	E-mail Address
Taylor	Aalvik	Cowlitz Indian Tribe	<a href="mailto:taalvik@cowlitz.org">taalvik@cowlitz.org</a>
Jeff	Baker	Grand Ronde Tribe	<a href="mailto:jeff.baker@grandronde.org">jeff.baker@grandronde.org</a>
Kathryn	Barko	US Army Corps of Engineers	<a href="mailto:kathryn.l.barko@usace.army.mil">kathryn.l.barko@usace.army.mil</a>
Bob	Baumgartner	Oregon Department of Environmental Quality	<a href="mailto:baumgartner.robert@deq.state.or.us">baumgartner.robert@deq.state.or.us</a>
Jerry	Boese	Ross and Associates Environmental Consulting, Ltd.	<a href="mailto:jerry.boese@ross-assoc.com">jerry.boese@ross-assoc.com</a>
Valentina	Cabrera-Stagno	Environmental Protection Agency	<a href="mailto:cabrera-stagno.valentina@epa.gov">cabrera-stagno.valentina@epa.gov</a>
Sarah	Calvillo Hoffman	Ross and Associates Environmental Consulting, Ltd	<a href="mailto:sarah.calvillo@ross-assoc.com">sarah.calvillo@ross-assoc.com</a>
Doug	Craner	US Army Corps of Engineers	<a href="mailto:douglas.c.craner@usace.army.mil">douglas.c.craner@usace.army.mil</a>
Julie	Carter	Columbia River Inter-Tribal Fish Commission	<a href="mailto:carj@critfc.org">carj@critfc.org</a>
Gwen	Carter	Nez Perce Tribe	<a href="mailto:gwenc@nezperce.org">gwenc@nezperce.org</a>
Juniper	Davis	Regional Tribal Operations Committee	<a href="mailto:juniperd@nezperce.org">juniperd@nezperce.org</a>
Kent	Easthouse	US Army Corps of Engineers	<a href="mailto:kent.b.easthouse@usace.army.mil">kent.b.easthouse@usace.army.mil</a>
Don	Essig	Idaho Department of Environmental Quality	<a href="mailto:don.essig@deq.idaho.gov">don.essig@deq.idaho.gov</a>
Kathleen	Feehan	Confederated Tribes of the Umatilla Indian Reservation	<a href="mailto:kathleenfeehan@ctuir.com">kathleenfeehan@ctuir.com</a>
Vicki	Finn	U.S. Fish and Wildlife Service	<a href="mailto:vicki_finn@fws.gov">vicki_finn@fws.gov</a>
Marilyn	Fonseca	Oregon Department of Environmental Quality	<a href="mailto:fonseca.marilyn@deq.state.or.us">fonseca.marilyn@deq.state.or.us</a>
Sharon	Frey	Environmental Protection Agency	<a href="mailto:frey.sharon@epa.gov">frey.sharon@epa.gov</a>
Mike	Gearheard	Environmental Protection Agency	<a href="mailto:gearheard.mike@epa.gov">gearheard.mike@epa.gov</a>
Rick	George	Confederated Tribes of the Umatilla Indian Reservation	<a href="mailto:rickgeorge@ctuir.com">rickgeorge@ctuir.com</a>
Melissa	Gildersleeve	Washington Department of Ecology	<a href="mailto:mgil461@ecy.wa.gov">mgil461@ecy.wa.gov</a>
John	Gleason	Bonneville Power Administration	<a href="mailto:jmgleason@bpa.gov">jmgleason@bpa.gov</a>
Greg	Graham	US Army Corps of Engineers	<a href="mailto:gregory.s.graham@usace.army.mil">gregory.s.graham@usace.army.mil</a>
Ritchie	Graves	National Oceanic and Atmospheric Administration	<a href="mailto:ritchie.graves@noaa.gov">ritchie.graves@noaa.gov</a>
John	Gross	Kalispel Tribe of Indians	<a href="mailto:jgross@knrd.org">jgross@knrd.org</a>
Bryan	Horsburgh	Bureau of Reclamation	<a href="mailto:bhorsburgh@pn.usbr.gov">bhorsburgh@pn.usbr.gov</a>
Martin	Hudson	US Army Corps of Engineers	<a href="mailto:martin.l.hudson@usace.army.mil">martin.l.hudson@usace.army.mil</a>
Jannine	Jennings	Environmental Protection Agency	<a href="mailto:jennings.jannine@epa.gov">jennings.jannine@epa.gov</a>
Mark	Jones	Bonneville Power Administration	<a href="mailto:mjones@bpa.gov">mjones@bpa.gov</a>

First Name	Last Name	Company Name	E-mail Address	P
Steve	Juul	US Army Corps of Engineers	<a href="mailto:steve.f.juul@usace.army.mil">steve.f.juul@usace.army.mil</a>	5
Denise	Keehner	Environmental Protection Agency	<a href="mailto:keehner.denise@epa.gov">keehner.denise@epa.gov</a>	2
Gayle	Lear	US Army Corps of Engineers	<a href="mailto:gayle.n.lear@nwd01.usace.army.mil">gayle.n.lear@nwd01.usace.army.mil</a>	5
Jeff	Lockwood	National Oceanic and Atmospheric Administration	<a href="mailto:jeffrey.lockwood@noaa.gov">jeffrey.lockwood@noaa.gov</a>	5
Monte	McClendon	Bureau of Reclamation	<a href="mailto:mmcclendon@pn.usbr.gov">mmcclendon@pn.usbr.gov</a>	2
Dale	McCullough	Columbia River Inter-Tribal Fish Commission	<a href="mailto:mccd@critfc.org">mccd@critfc.org</a>	5
Callie	McMunigal	US Fish and Wildlife Service	<a href="mailto:callie_mcmunigal@fws.gov">callie_mcmunigal@fws.gov</a>	5
Amy	Newman	Environmental Protection Agency	<a href="mailto:newman.amy@epa.gov">newman.amy@epa.gov</a>	2
Cheryl	Niemi	Washington Department of Ecology	<a href="mailto:cnie461@ecy.wa.gov">cnie461@ecy.wa.gov</a>	3
John	Palmer	Environmental Protection Agency	<a href="mailto:palmer.john@epa.gov">palmer.john@epa.gov</a>	2
Tim	Personius	Bureau of Reclamation	<a href="mailto:tpersonius@pn.usbr.gov">tpersonius@pn.usbr.gov</a>	2
Dave	Ponganis	US Army Corps of Engineers	<a href="mailto:David.J.Ponganis@usace.army.mil">David.J.Ponganis@usace.army.mil</a>	5
Matt	Rea	US Army Corps of Engineers	<a href="mailto:Matt.t.rea@usace.army.mil">Matt.t.rea@usace.army.mil</a>	5
Socorro	Rodriguez	Environmental Protection Agency	<a href="mailto:rodriguez.socorro@epa.gov">rodriguez.socorro@epa.gov</a>	5
Larry	Salata	Fish and Wildlife Service	<a href="mailto:Larry_salata@fws.gov">Larry_salata@fws.gov</a>	5
Mike	Schneider	US Army Corps of Engineers	<a href="mailto:michael.l.schneider@usace.army.mil">michael.l.schneider@usace.army.mil</a>	5
Dave	Shepp	US Army Corps of Engineers	<a href="mailto:David.L.Shepp@hq02.usace.army.mil">David.L.Shepp@hq02.usace.army.mil</a>	2
Mary Lou	Soscia	Environmental Protection Agency	<a href="mailto:soscia.marylou@epa.gov">soscia.marylou@epa.gov</a>	5
Don	Steffeck	Fish and Wildlife Service	<a href="mailto:don_steffeck@fws.gov">don_steffeck@fws.gov</a>	5
Ryan	Sudbury	Nez Perce Tribe	<a href="mailto:ryans@nezperce.org">ryans@nezperce.org</a>	5
Cathy	Tortorici	National Oceanic and Atmospheric Administration	<a href="mailto:cathy.tortorici@noaa.gov">cathy.tortorici@noaa.gov</a>	5
Rudd	Turner	US Army Corps of Engineers	<a href="mailto:rudd.a.turner@usace.army.mil">rudd.a.turner@usace.army.mil</a>	5
Jennifer	Wigal	Environmental Protection Agency	<a href="mailto:wigal.jennifer@epa.gov">wigal.jennifer@epa.gov</a>	2



## Appendix B: Updated Action Plan to Reflect EPA/Corps Meeting on November 16, 2006

The table below represents an updated version of the Action Plan table that was discussed toward the end of the workshop. The Action Plan table was updated to reflect comments from EPA and the Corps based on discussions after the workshop. The original Action Plan table is on page 10.

### Tasks for Setting up the New “Forum”

Task	Lead Individual(s)	Other Participants	Resources Needed	Target Completion Date	New Dates
<b>1a. Meeting Summary</b> <ul style="list-style-type: none"> <li>Prepare summary of November 14-15 workshop</li> </ul>	EPA/Corps/Ross	Bureau		<ul style="list-style-type: none"> <li>Distributed to EPA/Corps for review on Dec 1</li> <li>EPA/Corps/Bureau provide comments by Dec 15</li> <li>Revise and distribute final draft to meeting participants first week in January</li> </ul>	
<b>1b. Develop description of “forum”<sup>1</sup></b> <ul style="list-style-type: none"> <li>Develop a draft description (&amp; different name) for the “forum”</li> </ul>	EPA/Corps HQ	All/TBD		Dec 31	
<b>2. Organizational Check-back</b> <ul style="list-style-type: none"> <li>Organizations check back with bosses &amp; Identify staff (accountability)</li> </ul>	All			Jan 31	
<b>3. Establish Planning Group</b> <ul style="list-style-type: none"> <li>Send memo from co-chairs to entities asking for representative on planning group</li> </ul>	EPA/Corps HQ	EPA R10, Corps, Bureau, FWS, NOAA Fisheries		February 1 <sup>2</sup>	
<b>4. Develop Work Plan</b> <ul style="list-style-type: none"> <li>Planning Group develops 1<sup>st</sup> draft Work Plan</li> <li>Include description of the “forum”</li> </ul>	EPA/Corps HQ	EPA R10, Corps, Bureau, FWS, NOAA Fisheries		February 28 <sup>2</sup>	
<b>5. Build Groundwork</b> <ul style="list-style-type: none"> <li>Take a couple of months to have conversations with states on specific projects, best available tools, expectations               <ul style="list-style-type: none"> <li>Applegate, Willamette</li> </ul> </li> </ul>	Corps, Bureau	EPA, States, Tribes		<ul style="list-style-type: none"> <li>Start Dec 1</li> <li>Target complete by April 1</li> </ul>	

<sup>1</sup> This is not the official name of the future group that will address WQS attainment issues at federal dams. In the Pacific Northwest, there is an existing group called the Salmon Recovery Forum that often goes by “the Forum.” As such, a different name that will make the group more uniquely identifiable will be chosen.

<sup>2</sup> These dates may be delayed pending management of resources.

Task	Lead Individual(s)	Other Participants	Resources Needed	Target Completion Date	New Dates
<b>6. Establish the “forum”</b> <ul style="list-style-type: none"> <li>Letter from RA EPA Region 10, USACE Division commander announcing the establishment of the “forum”</li> </ul>	EPA Region 10	All		March 31, 2007	
<b>7. Convene 1<sup>st</sup> “forum” meeting to discuss issues</b>	EPA Region 10	All		Summer, 2007	
<ul style="list-style-type: none"> <li>Identify Parallel (not sequential) Paths to resolve priority issues</li> <li>Short term path: <ul style="list-style-type: none"> <li>Applegate, Willamette</li> <li>Other?</li> <li>Conversations on Col-Snake TMDL (whether and how to pursue modeling)</li> </ul> </li> </ul>	All  Corps/EPA/ Bureau/states/ tribes	NOAA/FWS			
<ul style="list-style-type: none"> <li>Long term path: <ul style="list-style-type: none"> <li>Revisit w/ OR</li> <li>Identify issues in WA &amp; ID standard issues and other changes</li> <li>Fed collaboration on modeling</li> </ul> </li> </ul>	Corps/EPA/ Bureau/states/ tribes	NOAA/FWS		Start Dec 1 Target complete by April 1 <ul style="list-style-type: none"> <li>Complete by Dec 2007</li> </ul>	
<u>Federal Integration</u> <ul style="list-style-type: none"> <li>Convene Federal agencies to integrate and ensure consistency of the Federal WQS process <ul style="list-style-type: none"> <li>States want to avoid negotiations with individual fed agencies and want to hear one message</li> <li>States get differing opinions from fed agencies on dams and CWA</li> <li>States need assurances on what it is going to take to get through fed process</li> </ul> </li> </ul>	Fed Family			TBD	
Corps Columbia/Snake Water Quality Plan	Corps/Bureau	EPA, States, Tribes		Mid-December & Spring '07?	

Task	Lead Individual(s)	Other Participants	Resources Needed	Target Completion Date	New Dates
<ul style="list-style-type: none"> <li>▪ Forum should address larger long term policy decisions               <ul style="list-style-type: none"> <li>▫ Collectively agree on best tools to address tough CWA/WQS issues</li> </ul> </li> </ul>	All			TBD	
<ul style="list-style-type: none"> <li>▪ Forum should look at FERC process to provide possible tools</li> </ul>	All	FERC, PUDS	TBD	TBD	